FEE STATEMENT

No additional fee is due because the number and type of newly added claims are the same as the number and type of originally presented. Nevertheless, an appropriate authorization to charge or credit the deposit account of applicant's attorney is enclosed in the required duplicate original form -- to be used if necessary.

TIMELINESS OF THE FINAL REJECTION

The Examiner's final rejection is untimely. It is alleged that amendments required new grounds of rejections. However, the only amendments made in response to the prior office action were amendments as to form suggested in the action. In view of applicant's response to the Examiner's suggestions, new art was cited in a final rejection. Such action is at best premature.

No reference at all is found in the action regarding the submitted affidavit. This affidavit, by an expert in the field, shows the effectiveness of applicant's invention.

REMARKS/ARGUMENTS

Claims 1 to 4 and 7 to 10 are in the application. The Examiner's objections and rejections to claims are discussed below. Claims 3, 4, 9 and 10 have objections thereto. Claims 1 to 4 stand rejected under 35 U.S.C. 102. Claims 7 to 10 stand rejected under 35 U.S.C. 103.

Appropriate amendments have been made to overcome the objections. The rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103 are respectfully traversed and withdrawal is requested.

RESPONSE TO OBJECTIONS

The objections presented by the Examiner were corrected as suggested by the Examiner. Withdrawal of these objections, is especially with regard to the fastening means is respectfully requested.

Accordingly, reconsideration and allowance of this

application are respectfully requested.

RESPONSE TO 35 U.S.C. 102(b) REJECTION

Claims 1 to 4 stand rejected under 35 U.S.C. 102(b) as being unpatentable over or anticipated by United States Patent 5,343,647 to Bulka (hereafter Bulka). This rejection is respectfully traversed.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner alleges that Bulka relates to a frame 11 and a center section 15 capable of being applied to the vehicle. No such disclosures are found in Bulka. The only clear application for the Bulka device is found in Figure 7 where the structure is applied to a purse.

Bulka does not even recognize applicant's problem let alone his solution thereto. The paper nature of the Bulka product is clearly against applicant's use. After the Bulka center tab is removed, nothing behind the Bulka product can be viewed. After applicant's center portion has been removed, the license plate can be viewed.

When applicant's center portion is removed, only the frame is left with a center opening therein. When element 1a is removed from Bulka no opening is left. Accordingly, Bulka cannot anticipate this invention.

In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) teaches that:

※`For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference'...These elements must be arranged as in the claim under review,...※

It is well set forth in the specification that applicant's advertising device is positioned on a vehicle in the license plate area. While the vehicle is still on the sales lot at a dealer, applicant's device is left whole. When the vehicle is sold, the advertising device is separated into the frame and center portion by breaking all tabs holding the center portion on the frame. Any number of

suitable tabs may be used to hold the advertising device together. When it is desired to place a license plate on the vehicle, the center portion is separated from the frame in a fashion so that the frame of applicant's device may be left around a license plate on a vehicle the frame also carrying advertising thereon.

Accordingly, withdrawal of this rejection is respectfully requested.

RESPONSE TO 35 U.S.C. 103 REJECTION

Claims 7 to 10 stand rejected under 35 U.S.C. 103 as unpatentable stand rejected under 35 U.S.C. 103 as unpatentable over United States Patent 4,819,355 to Solow (hereafter Solow) in view of United States Patent 6,262,807 to Pleotis (hereafter Pleotis). Not only are these references not properly combinable, even if they are assumed combinable for the sake of argument, applicant's invention still is not taught. Accordingly, withdrawal of this rejection is respectfully requested.

Solow is alleged to teach a removable center section. However, the center section of Solow does not close the center of the Solow device as applicant's center section does. The Solow opening is permanent, and merely enlarged by removal. Pleotis is cited merely to teach advertising thereon. This combination is alleged to teach applicant's structure.

Since Pleotis lacks an openable center section, no teaching to combine this reference with Solow can be alleged. The structures are different. The purposes of the references are different. The mere fact that both relate to a license plate matter does not teach it to be obvious to combine all structures.

Even if the structures are assumed combinable for the sake of argument, applicant's structure still is not taught. The references do not combine to teach a separable center section for applicant's claimed and disclosed purpose. Applicant's structure is clearly not taught.

Applicant's advantages are clearly disclosed, plainly

discussed and heavily emphasized in applicant's claims and specification. These factors bring this application into the realm of Graham v. John Deere, 383 U.S. 1, 23; 148 U.S.P.Q. 459, 469 (1966) and U. S. v. Adams, 383 U.S. 39, 48-49; 148 U.S.P.Q. 479, 482 (1966), and further renders the reference inapplicable to the instant claims.

It is well settled that the fact that the prior art is directed to the same problem as is the invention in question is not dispositive of obviousness as set forth In re Donovan, 309 F2d 554, 184 U.S.P.Q 414 (C.C.P.A. 1975). Accordingly, reversal of this rejection is requested.

Accordingly, withdrawal of this rejection is respectfully requested.

AMENDMENT ENTRY

Entry of this amendment is respectfully requested. The amendments made to the claims were suggested by the Examiner. At the very least, this amendment simplifies the issues for appeal by reducing the number of claims and eliminating the necessity of arguing the objection.

CONCLUSION

Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

Applicant respectfully requests that a timely notice of allowance be issued in this case.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited

Appl. No. 09/705,411
Amdt. dated September 17, 2004
Reply to Office action of September 4, 2004

by facsimile to (703)872-9306 addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on or before September 21, 2004.

Mathew R. P. Perrone, Jr. -- Depositor

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